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1 UNITED STATES DISTRICT COURT  
2 NORTHERN DISTRICT OF CALIFORNIA  
3 SAN FRANCISCO DIVISION  
4

5 **IN RE GOOGLE PLAY STORE**  
6 **ANTITRUST LITIGATION**

7 THIS DOCUMENT RELATES TO:

8 *Epic Games Inc. v. Google LLC et al.*,  
Case No. 3:20-cv-05671-JD

9 *In re Google Play Consumer Antitrust*  
*Litigation*, Case No. 3:20-cv-05761-JD

10 *State of Utah et al. v. Google LLC et al.*,  
Case No. 3:21-cv-05227-JD

11 *Match Group, LLC, et al., v. Google LLC, et*  
12 *al.*, Case No. 3:22-cv-01746-JD  
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Case No. 3:21-md-02981-JD

**DECLARATION OF JUSTIN P. RAPHAEL**  
**IN SUPPORT OF DEFENDANTS'**  
**OPPOSITION TO PLAINTIFFS' MOTION**  
***IN LIMINE* NO. 2**

Judge: Hon. James Donato

Date: October 19, 2023

Time: 1:30 p.m.

Courtroom: 11

**DECLARATION OF JUSTIN P. RAPHAEL**

I, Justin P. Raphael, declare as follows:

1. I am an attorney duly admitted to practice law in the State of California and before this Court. I am a Partner at Munger, Tolles & Olson LLP, and represent the Defendants in this action. I submit this Declaration in support of Defendants' Opposition to Plaintiffs' Motion *in Limine* No. 2. The contents of this declaration are based on my personal knowledge. If called as a witness, I could and would testify competently to the matters set forth in this declaration.

2. **Exhibit 1** is a true and correct copy of the document produced by Epic Games in this litigation bearing the Bates range EPIC\_GOOGLE\_00929129 to EPIC\_GOOGLE\_00929130.

3. **Exhibit 2** is a true and correct copy of the document produced by Match Plaintiffs in this litigation bearing the Bates range MATCHGOOGLE00087739 to MATCHGOOGLE00087740 (marked as Defendants' Deposition Exhibit DX0928).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on this 2nd day of October, 2023, in San Francisco, California.

/s/ Justin P. Raphael  
Justin P. Raphael

# **EXHIBIT 1**

From: [REDACTED]  
 Sent: Wed, 13 Nov 2019 08:44:25 +0000 (UTC)  
 To: Epic Games Player Support <epicgames\_issue\_20191112133800791-6845b5a6893edb3@epicgames.mail.helpshift.com>  
 Cc: tim@epicgames.com  
 Subject: Re: [20538189] Hi, My Son accidentally spent his "hard earned" V Bucks on 5 tier progress ( 750 V...

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Hi,  
 Many thanks for your response.

We are really disappointed that you are unable to help us as we feel my Sons V Buck accidental spend would have been avoided if your systems had more confirmation steps before buying items. Most other games companies have clear steps before you can purchase, e.g. item goes into basket, then questions asking "are you sure you want to purchase this?", "Press this button to complete your purchase". Your purchase process has none of these steps and we believe that it's designed to take advantage of young users and accidental purchase.

My Son had intended on making additional battle pass purchases in the near future, but as a parent I control what we spend "real money on!" Based on this experience, which has tarnished my & my Sons view of Epic games, I will be very unlikely to invest future monies in the Epic brand. Both my Sons also have Red Dead, Assassins Creed Series of games but feel this may be the last Epic game purchase.

Based on your lack of steps to purchase, as other games companies have, I hope you will reconsider your companies refusal to refund the accidental V Bucks spend and reestablish or trust and faith in the Epic Games brand. Also, get additional steps to purchase to avoid "accidental spend."

NB - Your CEO has been copied in on this interaction.

Many thanks for your help and support, fingers crossed you make my Son happy again.

[REDACTED]

This message is confidential and the information must not be used, disclosed, or copied to any other person who is not entitled to receive it. If you have received this message in error please notify the sender and then delete it.

On 13 Nov 2019, at 04:31, Epic Games Player Support - Raphy A. <support@epicgames.mail.helpshift.com> wrote:

Hi [REDACTED] Thank you for contacting Epic Games Support! I understand that you are inquiring to refund the V-Bucks. I know how important this to you as it is a hard earned money, however, please let me in

Epic Games Player Support - Raphy A.  
 November 13, 2019, 04:31 +0000 | Conversation ID: #20538189

Hi [REDACTED]

Thank you for contacting Epic Games Support!

I understand that you are inquiring to refund the V-Bucks. I know how important this to you as it is a hard earned money, however, please let me inform you that though I would love to help you as possible as I can, the V-Bucks aren't refundable as it is a part of consumable items such as the list below.

- Purchased Llamas
- Event and Weekly Items in Save the World
- Battle Passes
- Battle Pass Tiers
- Starter Packs in Battle Royale

Please don't hesitate to contact us again if you have any further questions or concerns.

Thank you for your utmost understanding!

.....  
 Epic Games Player Support  
 November 12, 2019, 13:39 +0000 | Conversation ID: #20538189

Thank you for submitting your request. A member of our Player Support Team will respond as quickly as possible.

.....  
 November 12, 2019, 13:38 +0000 | Conversation ID: #20538189

Hi,  
 My Son accidentally spent his "hard earned" V Bucks on 5 tier progress ( 750 V Bucks). I challenged, there must be safety measures in place prior to purchase, e.g. click next, are you sure you want to buy these click x, but he said there wasn't. Before I could stop him and to prove the lack of steps on purchase, he spent a further 300 V Bucks, NOOOOOOOOO!

I am hoping you can help us and stop my Son from vowing never to play Fortnite again! We did buy & pay "real money" for a starter pack so he could get the red

strike pack. Would it be possible to refund his V Bucks (1,050 V Bucks) as this was a genuine mistake?

Your help and support is very much appreciated. Fingers crossed you can put a smile back on his face!

Kind regards

[REDACTED]

From Epic Games Player Support.

# **EXHIBIT 2**

MATCHGOOGLE00087739



Thank you - I also have an update on some GBP tests we have run ... unfortunately [REDACTED]  
[REDACTED]  
[REDACTED]

On Jun 19, 2018, at 10:43 AM, Purnima Kochikar <[kochikar@google.com](mailto:kochikar@google.com)<<mailto:kochikar@google.com>>>>  
wrote:

Hi Adrian,

I am in NYC for work and had an unexpected conflict. Sorry I could not make your call. I thought I emailed you through the calendar, but realized that you are not on the invite, only Alyssa was. My apologies.

A quick update - we discussed your feedback at length and we are taking the time to figure out how best to address. Nothing new to report at this time. We will keep you posted.

Alyssa, please reschedule. Thanks.

P

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Purnima Kochikar  
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